

RENDIGS FRY KIELY & DENNIS LLP
One West Fourth Street, Suite 900
Cincinnati, OH 45202
Telephone: 513-381-9200
Facsimile: 513-381-9206

Robert F. Brown, Esq.
Telephone: 513-381-9200
Email: rbrown@rendigs.com

Attorneys for Peerless Transportation Co. and
Mad River Transportation, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	
In re:)	Chapter 11
)	
DPH HOLDINGS CORP., <i>et al.</i> ,)	Case No. 05-44481 (RDD)
)	
Reorganized Debtors.)	(Jointly Administered)
_____)	

**SUPPLEMENTAL BRIEF OF CLAIMANTS PEERLESS TRANSPORTATION
COMPANY AND MAD RIVER TRANSPORTATION, INC. IN SUPPORT OF CLAIM
NOS. 10686 AND 11045**

Peerless Transportation Company (“Peerless”), and Mad River Transportation, Inc., (“Mad River”), are trucking companies located in Dayton, Ohio. In support of Claim numbers 10686 and 11045 (jointly, the “Claims”), Peerless and Mad River, by and through their undersigned counsel, hereby file this supplement to their November 2006 responses to the Notices of Objection to Claim as set forth in Debtor’s Third Omnibus Objection and respond to the arguments set forth in the Reorganized Debtors’ Supplemental Reply To Responses Of Certain Claimants To Debtors’ Objections To Proofs Of Claim Nos. 10504, 10686, 11045, 11981, 11982, 11984, 11986, 11987, And 11990 (“Supplemental Reply Regarding The Tremont Site Claims”) [Doc. No. 20592].

1. BACKGROUND

As previously advised, Peerless and Mad River have been named by the United States Environmental Protection Agency (the “EPA”), as potentially responsible parties (“PRP”) for environmental contamination at the Tremont City Landfill, 3108 Snyder-Domer Road, Tremont, Ohio. The Claims each seek to recover sums Peerless and Mad River have directly expended, and will expend, to investigate and remediate the hazardous waste at the Tremont City Landfill attributable to other PRP’s, including Delphi Automotive Systems, LLC (“DAS”) and Delphi Corporation. The Reorganized Debtors now seek to avoid their fair share of the environmental clean up costs at the Tremont Landfill and have objected to the claims of Mad River and Peerless, which the Reorganized Debtors have designated as “Transporter Claims.”

2. THE REORGANIZED DEBTORS’ POSITION

In their Supplemental Reply, the Reorganized Debtors assert the Transporter Claims must be dismissed because the Reorganized Debtors have “determined that the Tremont claims assert liabilities that are not owing pursuant to the Reorganized Debtors’ books and records.” In support of this contention, the Reorganized Debtors argue that while Delphi and/or DAS are alleged liable parties under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) for contamination at the Tremont Landfill, neither Delphi nor DAS existed at the time the site operated as a landfill. The primary CERCLA argument against Delphi/DAS is that Delphi/DAS arranged for the disposal of hazardous substances or transported hazardous substances for disposal at the Tremont Landfill. The Reorganized Debtors then proceed to argue that Delphi/DAS were not in existence at the time of the alleged violation, presenting in support the divestiture papers in which General Motors and Delphi Automotive Systems separated the

company. Similarly, the debtors cite to the Master Separation Agreement and the Environmental Matters Agreement by and between General Motors Corporation and DAS.

3. ARGUMENT OF CLAIMANTS

However, the Reorganized Debtors' underlying CERCLA liability derives from (i) their respective statuses as successors to GM; and (ii) from their assumption of GM's environmental liabilities under the aforementioned Environmental Matters Agreement.

Peerless and Mad River hereby incorporate and adopt by reference any and all additional arguments made by other claimants who have had their claims objected to by the Reorganized Debtors. Specifically, Peerless and Mad River incorporate by reference the arguments presented by Illinois Tool Works, Inc. and ITW Food Equipment Group in their "Reply to the Reorganized Debtors' Response to the Supplemental Brief of Illinois Toll Works, Inc. and ITW Food Equipment Group, LLC in Support of Claim Nos. 11983, 11985, 11988 and 11989" filed with the Court on September 20, 2010 (Doc. No. 20608). Peerless and Mad River share similar fact patterns and legal positions as the ITW Claimants and only differ in their role as Transporter Claimants.

4. REQUESTS

Wherefore, Claimants Peerless Transportation Co. and Mad River Transportation, Inc. hereby request the Court deny the Reorganized Debtors' objections to Proofs of Claim Nos. 10686

and 11045 and that such claims be allowed in their entirety.

Respectfully submitted,

/s/ Robert F. Brown

Robert F. Brown, Esq. (0040143)
RENDIGS FRY KIELY & DENNIS LLP
One West Fourth Street, Suite 900
Cincinnati, OH 45202
Phone: 513-381-9200
Fax: 513-381-9206
Email: rbrown@rendigs.com

*Counsel to Peerless Transportation Co. and Mad
River Transportation, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Supplemental Brief or Claimants Peerless Transportation Company and Mad River Transportation, Inc. in Support of Claim Nos. 10686 and 11045 was served on this 22nd day of September, 2010 via the Court's ECF system on those parties registered to receive notice.

/s/ Robert F. Brown

Robert F. Brown